

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
BRYSON CITY DIVISION  
2:11-cv-02**

**RICK L. HODGES and CORNERSTONE )  
HOMES OF HIGHLANDS, LLC, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
FIRST AMERICAN BANK and TRUST )  
COMPANY, )  
 )  
Defendant. )  
\_\_\_\_\_ )**

**ORDER**

**THIS MATTER** is before the Court *sua sponte* to ascertain subject matter jurisdiction. The plaintiffs filed their Complaint, Amended Complaint and Second Amended Complaint alleging that the plaintiff Cornerstone Homes of Highlands, LLC is a corporation organized and existing under the laws of the state of North Carolina.

Courts have an affirmative duty to question subject matter jurisdiction even when the parties have not done so. Interstate Petroleum Corp. v. Morgan, 249 F.3d 215 (4<sup>th</sup> Cir. 2001); Plyer v. Moore, 129 F.3d 728, 732 n.6 (4th Cir. 1997), *certiorari denied* 524 U.S. 945, 118 S.Ct. 2359, 141 L.Ed.2d 727 (1998); 28 U.S.C. §1447(c) ("If at any time before final judgment it appears that the district court lacks

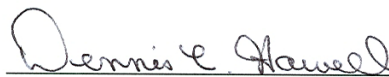
subject matter jurisdiction, the case shall be remanded." ). A limited liability company is a citizen of all states in which its constituent members are citizens.

Carden v. Arkoma Associates, 494 U.S. 185, 110 S.Ct. 1015, 108 L.Ed.2d 157

(1990). The plaintiffs have not disclosed in the Complaint, Amended Complaint, or Second Amended Complaint whether or not Cornerstone Homes of Highlands, LLC has constituent members or partners or the addresses of those partners and therefore it will be required to do so.

**IT IS, THEREFORE, ORDERED** that on or before December 2, 2011, the plaintiff Cornerstone Homes of Highlands, LLC shall file a response disclosing the names and citizenships, if any, of all the constituent members or partners of the above referenced LLC, and, for any such constituent members or partners that are limited liability companies or partnerships, to identify the citizenships of the respective constituent members or partners until all such constituents are fully identified.

Signed: November 22, 2011



Dennis L. Howell  
United States Magistrate Judge

